



Certificate of Relief from Collateral Consequences of a Criminal Conviction

Author : John Rubin

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In 2010, the Uniform Law Commission (also known as the National Conference of Commissioners on Uniform State Laws) adopted the [Uniform Collateral Consequence of Conviction Act](#) to assist states in developing strategies for addressing the collateral consequences of a criminal conviction. Collateral consequences are effects that generally are not imposed as part of a criminal sentence but arise as a result of the criminal conviction and in many instances continue long after the person completes his or her sentence. North Carolina and other states impose a wide range of collateral consequences, such as licensing and employment bars and benefit disqualifications, for criminal convictions.

In the uniform act, the Uniform Law Commission recommended that states allow ex-offenders to apply for relief, according to specified criteria, from collateral consequences that could impede their ability to reintegrate into society. Effective December 1, 2011, the North Carolina General Assembly enacted such a procedure in new Article 6 of G.S. Chapter 15A (G.S. 15A-173.1 through 15A-173.6), allowing certain ex-offenders to apply to the court for a certificate of relief from collateral consequences. See [S.L. 2011-265](#) (H 641). The North Carolina act is more limited than the uniform act, but it allows ex-offenders convicted of lower level felonies and misdemeanors to obtain some relief. Because the act does not contain any limiting language on the effective date of December 1, 2011, the procedure is available to ex-offenders who meet the requirements for relief whether their offenses or convictions occurred before or after that date.

The basic requirements for relief, contained in new G.S. 15A-173.2, are as follows:

1. The person must have been convicted of no more than two Class G, H, or I felonies or misdemeanors in one session of court and have no other convictions for a felony or misdemeanor other than a traffic violation.
2. The person must petition the court in which the convictions occurred—specifically, the senior resident superior court judge if the convictions were in superior court and the chief district court judge if the convictions were in district court. These judges may delegate their authority to hold hearings and issue, modify, or revoke certificates of relief to other judges or to clerks or magistrates in their district. The procedure for the filing and hearing of the petition, such as the giving of notice to the district attorney's office, is described in new G.S. 15A-173.4. See also G.S. 15A-173.6 (requiring the victim witness coordinator in the district attorney's office to give notice of the petition to the victim).
3. The person must establish certain matters by a preponderance of the evidence, including that twelve months have passed since the person completed his or her sentence, that the person is engaged in or is seeking to engage in a lawful occupation or activity, and that the person has no criminal charges pending.

If granted, a certificate of relief applies to two types of collateral consequences: "collateral sanctions," defined as a penalty, disability, or disqualification imposed by operation of law, such as a mandatory bar on obtaining a license for a particular occupation; and "disqualifications," defined as a penalty that an agency, official, or court may impose based on the conviction, such as a discretionary bar on an occupational license. A certificate of relief relieves the person of all automatic "collateral sanctions" except for those listed in new G.S. 15A-173.3 (for example, sex offender registration requirements and firearm disqualifications); those imposed by the North Carolina Constitution or federal law (for example, the state constitutional ban on holding the office of sheriff if previously convicted of a felony and the federal

bans on federally-assisted housing and food stamp benefits for certain convictions); and those specifically excluded in the certificate. A certificate of relief does not bar an entity from imposing a discretionary “disqualification” based on the conviction, but the entity may consider the certificate favorably in deciding whether to impose the disqualification. A certificate of relief also does not result in an expunction or pardon of the conviction; a person must use other mechanisms, if available for the conviction in question, to obtain those forms of relief.

Through a grant from the Z. Smith Reynolds Foundation, the indigent defense education group at the UNC School of Government is developing a searchable, electronic database, specific to North Carolina, of the collateral consequences of criminal convictions. This collateral consequences assessment tool (C-CAT) will be available in early 2012. The database will assist people in identifying the collateral consequences that apply to different types of convictions and the potential relief available under the new certificate-of-relief procedure. For additional information about C-CAT, contact [Whitney Fairbanks](#), Civil Defender Educator at the School of Government.